

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 20. COMMERCE, BANKING, AND INSURANCE

#### CHAPTER 6. DEPARTMENT OF INSURANCE

#### ARTICLE 19. HEALTH CARE SERVICES ORGANIZATIONS OVERSIGHT

##### PREAMBLE

**1. Sections Affected**

Article 19  
R20-6-1901  
R20-6-1902  
R20-6-1903  
R20-6-1904  
R20-6-1905  
R20-6-1906  
R20-6-1907  
R20-6-1908  
R20-6-1909  
R20-6-1910  
R20-6-1911

**Rulemaking Action**

New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 20-1051, 20-1053, 20-1054, 20-1057, 20-1058, 20-1059, 20-1064, 20-1065, 20-1379, 20-2301, and Laws 2000, Chapter 356, § 26

Implementing statutes: A.R.S. §§ 20-1053, 20-1054, 20-1058, 20-1059, 20-1064, 20-1065, and Laws 2000, Chapter 356, § 26

**3. The effective date of the rules:**

July 1, 2001

**4. List all previous notices appearing in the register addressing the proposed rules:**

None

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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2910 North 44th Street  
Phoenix, AZ 85018  
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**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

The regulatory scheme governing health care service organizations (HCSOs) was enacted in the early 1970s. Under that regulatory scheme, in effect until June 30, 2001, the regulatory responsibility is bifurcated between the Arizona Department of Insurance (ADOI) and the Arizona Department of Health Services (ADHS). ADOI is the lead, or enforcement agency. ADOI is the licensing authority, oversees financial condition, certain aspects of market conduct, policy forms and advertising and disciplinary matters. ADHS oversees the health services content of the

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health care plan, and determines whether the HCSO constitutes an “appropriate mechanism to achieve an effective health care plan”. ADHS promulgated rules in 1975 defining “basic health care services” and standards to determine whether an HCSO is an effective health care plan. Those rules have remained in effect.

In the 1970s when the current regulatory scheme was enacted, there was a low degree of HCSO penetration into the health insurance marketplace. In the current marketplace, HCSOs have achieved a high degree of market penetration, and have become extremely complex systems for the financing and delivery of health care. The complexity of the business often exceeds the effectiveness and flexibility of the current regulatory system.

Under the current regulatory scheme, ADHS does not actively enforce its rules after initial licensure. ADOI has no authority to regulate the delivery of health services. This causes gaps in the regulatory system and has left a growing consensus that regulatory responsibility should be consolidated in a single agency. Consequently, in 2000, the legislature passed SB 1330. Under SB 1330, effective July 1, 2001, all authority for regulation of HCSOs will be consolidated under ADOI. The principal effect of the consolidated regulatory structure will be to bring new responsibilities to ADOI. The ADOI will define basic health services and maintain, make determinations under and enforce rules that establish whether an HCSO provides for basic health care services and whether it constitutes an effective mechanism to achieve an effective health care plan. ADOI retains authority to review, approve, suspend or revoke certificates of authority for HCSOs.

The text of these temporary exempt rules, effective July 1, 2001, is essentially the same substantively as the text that existed under ADHS. Technical changes have been made to the rules to change references from ADHS to ADOI and to comply with current rule writing standards. Some changes have been made to reflect superseding changes in statutory authority and definitions. At the same time that the Department files this temporary exempt rulemaking, it will also file a Notice of Rulemaking Docket Opening for a permanent rulemaking regulating HCSOs to comply with Title 41, Chapter 6, Arizona Revised Statutes.

Statutory authority for this exemption is found at Laws 2000, Chapter 356, § 26

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
8. **The summary of the economic, small business and consumer impact:**  
Not applicable
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
Not applicable
10. **A summary of the principle comments and the agency response to them:**  
Not applicable
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable
12. **Incorporation by reference and their location in the rules:**  
None
13. **Was this rule previously adopted as an emergency rule?**  
No
14. **The full text of the rule follows:**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 19. HEALTH CARE SERVICES ORGANIZATIONS OVERSIGHT**

Section

<u>R20-6-1901.</u>	<u>Applicability</u>
<u>R20-6-1902.</u>	<u>Definitions</u>
<u>R20-6-1903.</u>	<u>Documentation</u>
<u>R20-6-1904.</u>	<u>Service Agreements</u>

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<u>R20-6-1905.</u>	<u>Examination and Review</u>
<u>R20-6-1906.</u>	<u>Health Care Plan</u>
<u>R20-6-1907.</u>	<u>Geographic Area</u>
<u>R20-6-1908.</u>	<u>Chief Executive Officer</u>
<u>R20-6-1909.</u>	<u>Medical Director</u>
<u>R20-6-1910.</u>	<u>Medical Records</u>
<u>R20-6-1911.</u>	<u>Quality Assurance</u>

**ARTICLE 19. HEALTH CARE SERVICES ORGANIZATIONS OVERSIGHT**

**R20-6-1901. Applicability**

- A.** These rules apply to all proposed and existing health care services organizations (HCSOs).
- B.** The Department shall not issue a certificate of authority to an HCSO unless the HCSO meets the requirements of this Article.
- C.** An existing HCSO shall not be required to re-file all information already on file with the Department, but it shall modify its operations and procedures as may be necessary to comply with this Article and file all additional information necessary to make statements complete and current.

**R20-6-1902. Definitions**

In this Article, the following definitions apply:

- “Chief executive officer” means the person who has the authority and responsibility for the operation of the health care services organization in accordance with applicable legal requirements and policies approved by the governing authority.
- “Department” means the Department of Insurance.
- “Governing authority” means a person or body such as a board of trustees or board of directors in whom the ultimate authority and responsibility for the direction of the health care services organization is vested.
- “HCSO” means a health care services organization.
- “Primary care” means initial treatment or screening of enrollees.
- “Primary care physician” means a general practitioner, family physician, internist or pediatrician.

**R20-6-1903. Documentation**

The chief executive officer (CEO) shall ensure that the HCSO’s policies, procedures, plans, class specifications, orders, reports, minutes of meetings, contracts, agreements, records, and duty schedules are in writing, compiled and indexed in one or more manuals, and readily available for inspection by the Director.

**R20-6-1904. Service Agreements**

The HCSO shall have a written service agreement with each primary care physician who provides services on a continuing basis, except for HCSO employees, that specifies the terms and conditions for services provided to the HCSO.

**R20-6-1905. Examination and Review**

The Director may inspect an HCSO facility and the facility of any primary care physician with whom the HCSO contracts for services.

**R20-6-1906. Health Care Plan**

- A.** The applicant shall submit a statement to the Department that describes the proposed health care plan, facilities, and personnel.
- B.** The HCSO shall have an organized system for the delivery of health care services contained in subsection (F) of this Section that includes the following:
1. Physicians, registered nurses and other professional and technical personnel who provide services under the plan;
  2. Procedure that promotes a continuing relationship between an enrollee and the same primary care physician; and
  3. A procedure for referrals that ensures continuity of care to enrollees.
- C.** The HCSO shall list:
1. The proposed or actual enrollment;
  2. The number and names of physicians that will serve the enrollees and the board eligibility or certification of each physician, if any;
  3. The number and type of support staff that will serve enrollees; and
  4. The plan for providing specialty medical services to enrollees.
- D.** All care provided by the HCSO, whether provided by its own personnel or on a contract basis, shall be by a licensed:
1. Practitioner of the healing arts;
  2. Health care institution; or
  3. Clinical laboratory.
- E.** The health care services described in subsections (F)(1), (2), (3), and (6) of this Section shall be provided seven days per week, and 24 hours per day.

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- E.** The health care plan shall provide, within the geographic area served, at least the following basic health care services that shall be covered by the monthly charges set forth in the evidence of coverage:
1. Emergency care that includes emergency services defined in A.R.S. § 20-2801(3);
  2. Inpatient general hospital care;
  3. Physician care that includes necessary diagnostic and therapeutic services provided by a person who has a current, and valid Arizona license to practice medicine and surgery;
  4. Outpatient care that includes preventive, diagnostic, and therapeutic services, including primary care, furnished by, or under the direction of, a physician, laboratory, or radiology services. Primary care may include services provided by the following:
    - a. A physician's assistant who has a current and valid registration under the applicable provisions of A.R.S. Title 32, Chapters 13, 17 and 25, to provide patient services as specified in the job description or approved program;  
or
    - b. A registered nurse certified by the Arizona State Board of Nursing, to function in specialty areas under A.R.S. § 32-1601(B)(6).
  5. Health maintenance care designed to prevent illness and to improve the general health of enrollees, offered when medically necessary or indicated that shall include the following:
    - a. Immunizations;
    - b. Health education; and
    - c. Periodic health examinations, excluding certified health examinations for insurance qualification, school attendance, and employment. The periodic examinations shall include screening for vision and hearing and shall be offered when medically necessary or indicated, and on at least on the following schedule:
      - i. Enrollees aged 0 - 1 year -- 1 exam every 4 months
      - ii. 2 - 5 years -- 1 exam every year
      - iii. 6 - 40 years -- 1 exam every 5 years
      - iv. 41 - 50 years -- 1 exam every 3 years
      - v. 51 - 60 years -- 1 exam every 2 years
      - vi. 61 years and over -- 1 exam every year
      - vii. A medical history and health examination offered to each new enrollee within 12 months after enrollment.
    6. Emergency ambulance services under A.R.S. § 20-2801(2), and other ambulance services when approved by a plan physician.
- G.** The HCSO shall provide appropriate coverage for out-of-area emergency care to enrollees when traveling outside the area served by the HCSO.

**R20-6-1907. Geographic Area**

- A.** The applicant shall submit a statement that describes the geographic area in which it will provide services that are reasonably convenient to prospective enrollees.
1. The applicant shall attach a map to the statement that describes the boundaries of the proposed geographic area and the location of each facility in which primary care will be provided under the plan; and
  2. The applicant shall describe the proposed geographic area in at least one of the following ways:
    - a. Legal description;
    - b. Local governmental jurisdiction such as city or county;
    - c. Census tracts;
    - d. Street boundaries; or
    - e. Area within a specified radius of a specified intersection, or a specified primary care center.
- B.** All advertising matter and sales material provided to prospective enrollees shall include a description of the geographic area in terms readily understandable by the general public.

**R20-6-1908. Chief Executive Officer**

- A.** The governing authority shall appoint a CEO who shall have appropriate education and experience to manage the HCSO. The governing authority shall define the authority and duties of the CEO in writing. The CEO shall be the appointed representative of the governing authority and shall be the executive officer of the HCSO.
- B.** The CEO shall have at least the following duties and responsibilities:
1. Management of the HCSO;
  2. Establish and implement policies and procedures of the HCSO;
  3. Act as liaison between the governing authority and the providers of healthcare and other services to the HCSO; and
  4. Establish a written plan of authority that will be in place in the CEO's absence.
- C.** When there is a change of CEO, the governing authority shall notify Department within 10 days after the effective date of change.
- D.** The HCSO shall assure that all HCSO employees and health practitioners covered by service agreements are knowledgeable about and qualified to perform the duties assigned to them through employment or by contract.

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- E.** The HCSO shall designate a central place of business within the major geographic area served at which the CEO shall be based and from which the HCSO shall direct administrative activities.

**R20-6-1909. Medical Director**

- A.** The HCSO shall designate a physician as medical director.
- B.** The medical director shall be responsible for planning and implementing the method for the continuing review and evaluation of health care provided by the HCSO and the continuing education of its providers of health care services. The medical director may also serve as the CEO, if the medical director has appropriate education and experience to manage the HCSO.
- C.** The medical director's responsibilities shall include:
1. Supervision of medical staff;
  2. Performance planning and evaluation of staff;
  3. Coordination of activities of medical staff; and
  4. Development of medical care policies.

**R20-6-1910. Medical Records**

- A.** The HCSO shall maintain a medical record system that is capable of readily providing necessary information and assures continuity of enrollee care.
- B.** The HCSO shall maintain a centralized medical record in accordance with acceptable professional standards. The record shall include records that detail all symptoms presented, diagnoses made and medical treatment the HCSO provided to each enrollee during the term of enrollment. This requirement applies to all HCSO services provided to enrollees, whether provided by employees of the HCSO or non-employees at the request of the HCSO.
- C.** The HCSO shall designate a person to be generally responsible for administration of records.
- D.** The HCSO shall ensure that medical records are kept confidential and that only authorized personnel shall have access to the records.
- E.** Medical records shall not be removed from the premises where they are filed, except by subpoena, court order, or written permission or request of the patient who is the subject of the records. The HCSO may route the record, including X-ray film, to practitioners of the healing arts for consultation or evaluation.
- F.** Under A.R.S. § 20-1058(D) and A.R.S. § 20-1064, the HCSO shall make records available for review by the Director or representatives of the Director. During routine surveys, the Department representatives shall review medical records of the HCSO on a random sample basis or upon complaint or special investigations, specific medical records may be reviewed.
- G.** The HCSO shall ensure that complete records are preserved for at least 10 years. If the enrollee is a minor, the record shall be maintained for at least two years after the enrollee has reached majority.
- H.** If an enrollee discontinues enrollment in the HCSO, the HCSO shall furnish, to the enrollee, upon written request, a written summary covering all pertinent phases of health care provided during enrollment. The summary shall include a copy of pertinent reports and results of diagnostic tests that might be used for comparative purposes, a record of immunizations and the last periodic health examination to another provider of health care services, as specified by the enrollee. This summary shall be furnished within 30 days after the enrollee requests disenrollment. The HCSO may charge a reasonable fee for the summary, based upon the cost of providing it.

**R20-6-1911. Quality Assurance**

- A.** The HCSO shall provide an effective method for a continuing review and evaluation of the health care provided to ensure that treatment and level of care were appropriate and adequate, that the quality of health care provided met acceptable standards, and that corrective action occurred or will occur, if indicated.
- B.** The HCSO shall have a quality assurance committee that includes at least the chief executive officer, or designee, the medical director, practitioners of the healing arts, and allied health professionals. Services performed by practitioners of the healing arts shall be reviewed and evaluated by colleagues within their disciplines. The committee shall adopt administrative procedures covering frequency of meetings, types of records to be kept, and arrangements for committee reports and dissemination of the reports.
- C.** The HCSO shall have a quality assurance that includes procedures to be used for each of the following:
1. Establishment of standards for health care;
  2. Monitoring of care provided;
  3. Analysis of problems identified;
  4. Correction of deficiencies including a time schedule for correction and a link to a continuing education program;  
and
  5. Follow-up and periodic reassessment of the plan.